

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

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| THE EVERCARE COMPANY, |) | CASE NO. 1:08MC42 |
| |) | |
| Plaintiff, Counterclaim-Defendant, |) | JUDGE CHRISTOPHER A. BOYKO |
| |) | |
| vs. |) | <u>JUDGMENT ENTRY</u> |
| |) | |
| 3M COMPANY, |) | |
| |) | |
| Defendant, Counterclaim-Plaintiff, |) | |

CHRISTOPHER A. BOYKO, J.:

On May 23, 2008, Defendant 3M Company filed a Motion to Compel Compliance with Subpoena pursuant to Fed. R. Civ. P. 37 and 45 and Local Rule 37.1, seeking non-party Chemsultants International, Inc.'s compliance with 3M's subpoena, issued out of this Court, and calling for the production of documents and a deposition. (ECF DKT #1). On June 6, 2008, Plaintiff The Evercare Company filed an Opposition (ECF DKT #5), arguing the documents and deposition testimony sought by 3M are protected from discovery by the attorney work product doctrine. On June 10, 2008, Chemsultants filed its own Opposition (ECF DKT #10), requesting the Court resolve the issue; and either order the documents be produced, or declare the documents protected by the attorney work product doctrine. On June 20, 2008, 3M filed a Reply

Memorandum in Support of Motion to Compel (ECF DKT #11). On June 30, 2008, the Court referred the matter to the Magistrate Judge for a ruling, pursuant to Fed. R. Civ. P. 72a and Local Rule 72.3a. (ECF DKT #12). On July 10, 2008, the Magistrate Judge issued a nineteen-page Order (ECF DKT #13) granting 3M's Motion to Compel Compliance with Subpoena.

Fed. R. Civ. P. 72a and Local Rule 72.3a provide any party may appeal the Magistrate Judge's Order determining a motion within ten (10) days after service of the Magistrate Judge's Order. None of the parties to this suit (including Chemsultants to whom the discovery was directed) has filed an appeal as of this date. Therefore, the Court must assume they are satisfied with the Magistrate Judge's Order. Any further review by this Court would be a duplicative and an inefficient use of the Court's limited resources. *Thomas v. Arn*, 728 F.2d 813 (6th Cir. 1984), aff'd, 474 U.S. 140 (1985).

Therefore, the Magistrate Judge's Order stands; and 3M's Motion to Compel is granted. It is not necessary the action remain on the calendar of the Court; and accordingly, the case is closed.

IT IS SO ORDERED.

DATE: August 29, 2008

S/Christopher A. Boyko
CHRISTOPHER A. BOYKO
United States District Judge